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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,353	03/21/2001	Manfred Pfalzgraf	740123-351	347

22204 7590 09/11/2003

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EXAMINER

PEDDER, DENNIS H

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 09/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/813,353

Applicant(s)

PFALZGRAF, MANFRED

Examiner

Dennis H. Pedder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 10/15/2002 is: a) ☐ approved b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Drawings

I. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the cover guided essentially at the height of the roof contour by the lateral guides over most of the path of movement, claim 7, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawing proposals of 10/15/2002 are not approved. There is no prior art mechanism of record that would produce the claimed movement in this application and hence no schematic illustration of such is permissible.

II. The drawings are objected to under 37 CFR 1.83(b) because they are incomplete. 37 CFR 1.83(b) reads as follows:

When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

Correction is required.

The drawings do not illustrate the mechanism responsible for the claimed movement of claims 1-9. Applicant's remarks of both 8/7/2003 are noted, but, unfortunately not convincing. The cited reference US 4,911,496, 4,911,497, and French patent 2,730,958 cannot and do not operate in the manner claimed. For example, while the '497 patent has cam tracks 71,72 to lower the panel, the lowering is prior to rearward sliding of the panel, is not at a constant rear height for some section of the movement and the cam tracks move rearwardly to lower the panel, all inoperative in the environment claimed. Panel 14 of Patent '496 is fixed at its rear edge and cannot move anywhere, front panel 13 does not lower itself. The panels 10, 20 of the French patent are raised and lowered, respectively, prior to sliding movement, there is no latter lowering of either panel. Applicant's claims having been thrice rejected, appeal continues to be an option for further opinion, should applicant so desire.

Claim Rejections - 35 USC § 112

III. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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IV. Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Paragraph II above is incorporated by reference. There is no mechanism disclosed that would result in the claimed movement of the above claims. Applicant has envisioned a desirable result without effect. As a result, the invention appears to be incomplete as of the date of filing.

V. Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Paragraphs II-IV above are incorporated by reference. It is not at all clear how one would enable the movements of claim 1-9.

Response to Arguments

1. Applicant's arguments filed August 7, 2003 have been fully considered but they are not persuasive.

Regarding applicant's specific arguments:

The mechanism of this invention is not conventional, therefore no labeled representation is proper. Further, the mechanism of the invention is essential to understand the invention.

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Regarding the prior applications, applicant did not claim the specific movement claimed in this application.

Applicant may pick and choose elements of the prior art to form his invention, but such choosing may constitute invention under US law.

Applicant's interpretation of the movement of the French patent is traversed. The trailing edge of the cover 10 is raised prior to longitudinal movement and the trailing edge of the cover 20 is lowered prior to that movement. See pivots 15,41,51,60.

While the examiner does not take pleasure in precluding patent protection, the issuance of patent protection for inventions that are not completed at time of filing is to be avoided.

Applicant's repeated attempts to salvage protection in this application by selecting mechanisms of the prior art, mechanisms that do not function as claimed, is futile in the examiner's opinion.

Applicant may appeal if abandonment or CIP status to complete the invention is not desired.

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

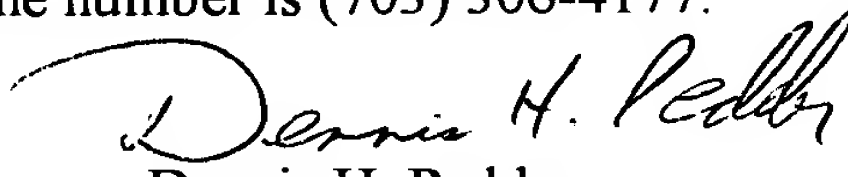
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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (703) 308-2178. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.


Dennis H. Pedder
Primary Examiner
Art Unit 3612
8/26/03

DHP